Cour Pénale Internationale
International Criminal Court

Case Information Sheet

Situation in Darfur, Sudan

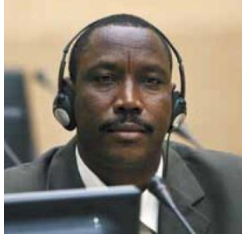
The Prosecutor v. Bahar Idriss Abu Garda

ICC-02/05-02/09

ICC-PIDS-CIS-SUD-03-004/16_Eng
Updated: 7 March 2016

Bahar Idriss Abu Garda

On 8 February 2010, Pre-Trial Chamber I declined to confirm charges of war crimes against Bahar Idriss Abu Garda.



Date of birth: 1 January 1963

Place of birth: Nana, North Darfur

Tribe: Zaghawa

Current situation: Chairman and General Coordinator of Military Operations of the United Resistance Front

Summons to appear: Issued under seal on 7 May 2009 | Unsealed on 17 May 2009

First voluntarily appearance: 18 May 2009

Confirmation hearing: 19 -30 October 2009

Decision on the confirmation of charges: 8 February 2010

Charges

Pre-Trial Chamber I considered that there are reasonable grounds to believe that Abu Garda is criminally responsible as a co-perpetrator or as an indirect co-perpetrator for three war crimes under article 25(3)(a) of the Rome Statute:

- violence to life in the form of murder, whether committed or attempted, within the meaning of article 8(2)(c)(i) of the Statute;
- intentionally directing attacks against personnel, installations, material, units or vehicles involved in a peacekeeping mission within the meaning of article 8(2)(e)(iii) of the Statute; and
- pillaging within the meaning of article 8(2)(e)(v) of the Statute.

Status of Proceedings: Pre-Trial Chamber declined to confirm the charges. The Prosecution can request anew the confirmation of charges by presenting additional evidence. Abu Garda is not in the custody of the ICC.

Alleged crimes

Pre-Trial Chamber I found that there are reasonable grounds to believe that:

- A protracted armed conflict not of an international character existed in Darfur between the Government of Sudan and several organised armed groups, including the Justice and Equality Movement (JEM). In this context, an attack was carried out on 29 September 2007, against the African Union [peacekeeping] Mission in Sudan personnel, installations, material, units and vehicles that were stationed at the Haskanita Military Group Site (MGS Haskanita), in the locality of Umm Kadada, North Darfur, Sudan.

- The attack on the MGS Haskanita was allegedly carried out by splinter forces of JEM, under the command of Abu Garda, jointly with the troops belonging to another armed group. The attackers, approximately 1,000 persons armed with anti-aircraft guns, artillery guns and rocket-propelled grenade launchers, allegedly killed twelve and severely wounded eight AMIS soldiers. They allegedly destroyed communication, installations, dormitories, vehicles and other materials and appropriated property belonging to AMIS, including 17 vehicles, refrigerators, computers, cellular phones, military boots and uniforms, fuel, ammunition and money during and after the attack.

- It is alleged that Abu Garda and the other commanders of the troops that participated in such attack agreed on a common plan to attack the MSG Haskanita and that the common plan included the commission of the above-mentioned war crimes.

- The AMIS personnel, installations, material, units and vehicles stationed at the MGS Haskanita were the intended object of the attack.

Key judicial developments

Referral and opening of the investigation

The International Commission of Inquiry on Darfur was established by former United Nations Secretary-General Kofi Annan pursuant to Security Council resolution 1564. The Commission reported to the UN in January 2005, that there was reason to believe that crimes against humanity and war crimes had been committed in Darfur and recommended the referral of the situation to the ICC.

Using its authority under the Rome Statute, the United Nations Security Council referred the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court in resolution 1593 on 31 March 2005.

Following the referral from the United Nations Security Council, the Prosecutor received the conclusion of the International Commission of Inquiry on Darfur. In addition, the Office of the Prosecutor requested information from a variety of sources, leading to the collection of thousands of documents. The Prosecutor concluded that the statutory requirements for initiating an investigation were satisfied and decided to open the investigation on 6 June 2005.

Summons to appear

On 20 November 2008, The Prosecutor submitted an application under article 58 of the Statute for the issuance of warrants of arrest or, alternatively, summonses to appear for Bahar Idriss Abu Garda and two other individuals who allegedly participated to the attack on MGS Haskanita.

On 23 February 2009, the Prosecutor filed a "submission of information on the Prosecutor's Application Pursuant to article 58 and request for summonses to appear", partially modifying his original application and requesting the Chamber to issue a summons to appear against Abu Garda.

On 7 May 2009, Pre-Trial Chamber I issued under seal a summons to appear against Abu Garda. The summons to appear was unsealed on 17 May 2009.

Initial appearance

The suspect appeared voluntarily before Pre-Trial Chamber I on 18 May 2009. Judge Cuno Tarfusser, acting as single judge, informed him of the crimes which he is alleged to have committed and of his rights under the Rome Statute.

Confirmation of charges

A confirmation of charges hearing was held from 19 to 30 October 2009.

On 8 February 2010, Pre-Trial Chamber I refused to confirm the charges against Abu Garda. The Chamber found that the Prosecution's allegations that Abu Garda participated in the alleged common plan to attack MGS Haskanita were not supported by sufficient evidence.

On 15 March, the Prosecution submitted a request to Pre-Trial Chamber I for leave to appeal the decision on the confirmation of charges. Pre-Trial Chamber I rejected the application on 23 April 2010.

On 15 March 2012, the ICC Presidency assigned Pre-Trial Chamber II to this case.

Participation of victims

Pre-Trial Chamber I granted 87 persons the status of victim authorised to participate in the case of *The Prosecutor v. Bahar Idriss Abu Garda*.

Composition of Pre-Trial Chamber II
Judge Cuno Tarfusser, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Chang-ho Chung

Representation of the Office of the Prosecutor
Fatou Bensouda, Prosecutor

Defence Counsel for Abu Garda
Karim Asad Ahmad Khan
Andrew Burrow

Legal Representatives of the Victims
Brahima Koné
Hélène Cissé
Akin Akinbote
Colonel Frank Adaka